

2007 DRAFTING REQUEST

Bill

Received: **03/20/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - crimes agnst kids

Extra Copies:

Submit via email: **YES**

Requester's email: **anne.sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Placement of sex offenders

Instructions:

See Attached--WLC0092/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|--|--|------------------------|----------------|------------------------|-----------------|-----------------|
| /? | | | | | | | S&L |
| /P1 | chanaman 04/27/2007 chanaman 05/01/2007 | kfollett 04/27/2007 kfollett 05/01/2007 | pgreensl 04/27/2007 | | cduerst 04/27/2007 | | S&L |
| /1 | chanaman 05/01/2007 | kfollett 05/01/2007 | jfrantze 05/01/2007 | | sbasford 05/01/2007 | | S&L |

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|-----------------------------------|----------------|-----------------------------------|------------------------|-----------------|
| /2 | | | nnatzke _____ 05/01/2007 _____ | | lparisi _____ 05/01/2007 _____ | sbasford 05/10/2007 | |

FE Sent For: "1/2" @ intro.
5-15-2007

<END>

2007 DRAFTING REQUEST

Bill

Received: **03/20/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - crimes agnst kids

Extra Copies:

Submit via email: **YES**

Requester's email: **anne.sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Placement of sex offenders

Instructions:

See Attached--WLC0092/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|--|--|------------------------|----------------|------------------------|-----------------|-----------------|
| /? | | | | _____ | | | S&L |
| /P1 | chanaman 04/27/2007 chanaman 05/01/2007 | kfollett 04/27/2007 kfollett 05/01/2007 | pgreensl 04/27/2007 | _____ | cduerst 04/27/2007 | | S&L |
| /1 | chanaman 05/01/2007 | kfollett 05/01/2007 | jfrantze 05/01/2007 | _____ | sbasford 05/01/2007 | | S&L |

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /2 | | | nnatzke | _____ | lparisi | | |
| | | | 05/01/2007 | _____ | 05/01/2007 | | |

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: **03/20/2007**

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - crimes agnst kids

Extra Copies:

Submit via email: **YES**

Requester's email: **anne.sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Placement of sex offenders

Instructions:

See Attached--WLC0092/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|--|--|--------------------------------------|----------------|---|-----------------|-----------------|
| /? | | | | | | | S&L |
| /P1 | chanaman 04/27/2007 chanaman 05/01/2007 | kfollett 04/27/2007 kfollett 05/01/2007 | pgreensl 04/27/2007 | | cduerst 04/27/2007 | | S&L |
| /1 | | 12 kjf 5/1 | jfrantze 05/01/2007 nwn 5/1 | | sbasford 05/01/2007 nwn/rs 5/1 | | |

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 03/20/2007

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - crimes agnst kids

Extra Copies:

Submit via email: **YES**

Requester's email: **anne.sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Placement of sex offenders

Instructions:

See Attached--WLC0092/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | | | | | | | S&L |
| /P1 | chanaman 04/27/2007 | kfollett 04/27/2007 | pgreensl 04/27/2007 | | cduerst 04/27/2007 | | |
| FE Sent For: | | 11/5f 5/12 | 5/11 | 5/11 | 5/11 | | <END> |

2007 DRAFTING REQUEST

Bill

Received: 03/20/2007

Received By: **chanaman**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC**

By/Representing: **Anne Sappenfield**

This file may be shown to any legislator: **NO**

Drafter: **chanaman**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - sex offenses**
Criminal Law - crimes agnst kids

Extra Copies:

Submit via email: **YES**

Requester's email: **anne.sappenfield@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Placement of sex offenders

Instructions:

See Attached--WLC0092/1

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|

| | | | | | | | |
|----|----------|---------------|----------------|--------------------|--|--|--|
| /? | chanaman | 1A kf 4/27 | 4 6/8 p8 | 4 7/27 p8/RS | | | |
|----|----------|---------------|----------------|--------------------|--|--|--|

FE Sent For:

<END>



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2293/P1

CMH:...

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

AN ACT *to amend* 51.30 (4) (b) 16., 301.45 (3) (title) and (a) (intro.), 301.45 (3) (b) 1., 301.45 (3) (b) 1m., 301.46 (2) (c), 301.46 (2) (d), 301.46 (2m) (a), 301.46 (2m) (am), 301.46 (2m) (b) (intro.) and 2., 301.46 (5) (bm) 2. and 301.46 (5n) (a); and *to create* 301.01 (1g), 301.03 (20b), 301.45 (2) (a) 6m., 301.46 (1) (am), 301.46 (2) (am), 301.46 (5) (bm) 10. to 12., 301.48 (3) (e) and 973.50 of the statutes; **relating to:** disclosure of information regarding sexually violent persons, creating a definition of "high-risk sex offender", child safety zones, sex offender registry requirements, the sex offender registry website, and disclosure of sex offender registry and global positioning system tracking information to postsecondary educational institutions.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill ~~draft~~ was prepared for the Joint Legislative Council's Special Committee on Placement of Sex Offenders. The bill ~~draft~~ does the following:

Release of Specified Information to Law Enforcement Officer Regarding Certain ch. 980 Sexually Violent Persons (SVPs)

Under a provision in the Mental Health Act (ch. 51, stats.), treatment records of an individual may be released without informed written consent under certain specified circumstances. One of these circumstances, set forth in s. 51.30 (4) (b) 16., stats., permits such a release, if authorized by the secretary of the department of health and family services (DHFS), to a law enforcement officer, upon request, if the individual was admitted under ch. 971 (not responsible by reason of mental disease or defect) or 975 (the sex crimes law), stats., or transferred under other specified statutory provisions. That subdivision limits the information that is permitted to be released to certain specified information, including information as to the individual's whereabouts during any time period. *Individuals committed under ch. 980 SVPs are not included in s. 51.30 (4) (b) 16.* Thus, this ch. 51 provision treats the disclosure of information related to ch. 980 patients differently from other high-risk mental health patients (i.e., patients who are committed, in part, because of their commission of a crime).

This bill ~~draft~~ revises s. 51.30 (4) (b) 16. to make it apply to individuals committed or detained under ch. 971, 975, or 980 thus permitting a law enforcement officer to obtain the information set forth in that subdivision about ch. 980 commitments, including the individual's whereabouts during any time period. The bill ~~draft~~ also:

1. Modifies the focus of the current provision on inpatient commitments by substituting "committed or detained" for "admitted". This change permits DHFS to provide this information relating to patients on supervised release in the community.
2. Deletes the language in this provision that allows DHFS to provide this information only "upon request" of a law enforcement officer.

Child Safety Zones

The bill ~~draft~~ requires the department of corrections (DOC) to prohibit a person, as a condition of probation, parole, or extended supervision for a violation of first- or second-degree sexual assault or engaging in repeated acts of sexual assault of the same child, from going to places or entering zones containing places where children congregate and where it would be in the interest of public protection to prohibit the person from going, as determined by the department, during any part of the person's period of probation, parole, or extended supervision.

The bill ~~draft~~ also requires the court to impose such conditions during any part of the person's sentence or period of probation when sentencing a person for first- or second-degree sexual assault or engaging in repeated acts of sexual assault of the same child.

Sex Offender Registration Requirements

Under current law, a person must register with DOC as a sex offender if he or she has been convicted of certain sex offenses, found not guilty of certain sex offenses by reason of mental disease or defect, or adjudicated delinquent on the basis of certain sex offenses.

The DOC may require a person registered as a sex offender to provide DOC with his or her fingerprints, a recent photograph, and certain other information including the address at which he or she is or will be residing, the name and address of the place at which he or she is or will be employed, and the name and location of any school in which

the Department of Health and Family Services

or DHFS prohibit to prohibit a person on conditional release or parole under ch. 975,

DOC

or conditional release

fen (10) he or she is or will be enrolled. If any information contained in DOC's registry of sex offenders changes, the registrant must provide DOC with the updated information within 10 days after the change occurs, except that, if the registrant is on parole or extended supervision and the registrant knows that the address of his or her residence will be changing, the registrant must provide DOC with the updated information before the change in address occurs, or, if the registrant did not know that his or her address would be changing, the registrant must provide DOC with that updated information within 24 hours after the change in address occurs.

X
X Under the bill draft a person who is required to register with DOC as a sex offender must also provide, and update, his or her email account and the Internet address of any website he or she maintains.

Under current law, in general, a person who is registered as a sex offender must register annually with DOC, as directed by DOC. At that time, the person must provide DOC with information such as his or her current address and the name and location of any employer or school the person attends.

A person who is subject to lifetime sex offender registration and has been found to be an SVP must register every 90 days, as directed by DOC.

The bill draft requires a person registered as a sex offender to register every 6 months and to provide DOC with the registry information in person. At the time of the registration, DOC must photograph the person and then update the registry with the person's most current photograph. *SVP*

The bill draft maintains the requirement that certain persons subject to lifetime sex offender registration register every 90 days but requires that registration be in person at least once every 6 months. At the time of in-person registration, DOC must photograph the person and then update the registry with the person's most current photograph. *SVP*

X *Information Provided to Director of Security of Postsecondary School*

Under current law, when a person is registered as a sex offender with DOC, DOC must immediately make specified information available to the police chief of any community and the sheriff of any county in which the person is residing, is employed, or is attending school. DOC must make the information available through a direct electronic data transfer system. Also under current law, DOC is required to provide the police chief of any community and the sheriff of any county in which the person is residing, is employed, or is attending school with special bulletin notices relating to certain sex offenders and may provide special bulletin notice concerning any sex offender. *@*

X The bill draft requires DOC to make this information available to the director of security for any postsecondary educational institution in the community in which the person is residing, is employed, or is attending school. "Postsecondary educational institution" is defined as a public or private college or university, or a vocational or technical institution or school.

However, under the bill draft, DOC may not provide information to the director of security for a postsecondary educational institution that relates to a child who is registered as a sex offender or that relates to a juvenile delinquency adjudication for a sex offense.

The bill draft also requires DOC to provide a director of security for a postsecondary educational institution with information obtained through the global positioning tracking system for certain sex offenders, upon request of the director of security. The information provided and the manner in which it is provided is determined by DOC. *DOC determines*

Information on DOC Internet Site

Under current law, DOC is required to provide access to information concerning registered sex offenders by creating and maintaining an Internet site and by any other means that DOC determines is appropriate. The DOC must provide the following information on a registered sex offender on the site:

1. If the person is an SVP under ch. 980, stats., a notice, written in red letters, of that status.
2. A current color photograph of the person, if available, and a physical description including sex, race, height, weight, eye color, and hair color.
3. The person's name and home address.
4. Whether the person has responded to the last contact letter from DOC.
5. The crime committed for which the person must register.
6. Any conditions of the person's supervised release, except for any condition that may reveal the identity of the victim of the crime that the person committed for which he or she must register.
7. The date, time, and place of any scheduled hearings for supervised release or discharge under ch. 980, stats.
8. The name of the judge who authorized supervised release or discharge for the person.
9. The most recent date on which the information was updated.

The bill ~~draft~~ expands the list of required information on the DOC Internet site to include the following about these registered persons:

1. ~~a.~~ If the person is an SVP or a registered "high-risk sex offender", the geographic area of any current employer of the person or any business the person is operating and the geographic area of any school the person is attending. The bill ~~draft~~ creates a definition of "high-risk sex offender".
2. ~~b.~~ A full body photograph of the person. This is in addition to the other photograph requirements in the ~~draft~~ and in current law.
3. ~~c.~~ Two or more current color photographs of the person. The photographs must be updated at least every 6 months. If one or more current color photographs of the person are impossible to obtain, one or more other photographs of the person may be used.
4. ~~d.~~ A specific description of any distinguishing marks on the person's body.

This bill ~~draft~~ also requires DOC to include links to other state agency websites that provide information on the prevention and identification of sexual abuse and other sex crimes and information on how to report suspected sexual abuse or other sex crimes.

1 **SECTION 1.** 51.30 (4) (b) 16. of the statutes is amended to read:

2 51.30 (4) (b) 16. If authorized by the secretary or his or her designee, to a law
3 enforcement agency ~~upon request~~ if the individual was admitted committed or
4 detained under ch. 971 ~~or~~, 975, or 980 or transferred under s. 51.35 (3) or 51.37.
5 Information released under this subdivision is limited to the individual's name and

1 other identifying information, including photographs and fingerprints, the branch
2 of the court that committed the individual, the crime that the individual is charged
3 with, found not guilty of by reason of mental disease or defect or convicted of, whether
4 or not the individual is or has been authorized to leave the grounds of the institution
5 and information as to the individual's whereabouts during any time period. In this
6 subdivision "law enforcement agency" has the meaning provided in s. 165.83 (1) (b).

family
NOTE: Permits disclosure of specified information to law enforcement relating to an SVP committed under ch. 980, stats., if authorized by the secretary of health and human services, under ch. 51, stats., the mental health act.

use on p. 12
create H.R. 1150 46 ✓ (ag)
SECTION 2. 301.01 (1g) of the statutes is created to read:

MOVE TO page 8
8 301.01 (1g) "High-risk sex offender" means a person who has been found to
9 have committed a sex offense, as defined in s. 301.45 (1d) (b), or a federal law or law
10 of another state that is comparable to such a sex offense and who meets, as
11 determined by the department, one of the following criteria:
determines that the person meets

12 1. (b) Has been found to have committed offenses involving 2 separate victims if
13 at least one of the victims was a victim of a serious sex offense, as defined in s. 304.06
14 (2m) (a), and one victim was the victim of such a serious sex offense or a serious
15 felony, as defined in s. 939.62 (2m) (a) 2m.
as defined in s. 304.06 (2m) (a)

16 2. (c) Has been found to have committed a serious child sex offense, as defined in
17 s. 939.62 (2m) (a) 1m., involving a victim less than 12 years of age, and the offense
18 was directed toward a person with whom a relationship had been established or
19 exploited for the purpose of victimization, a person of casual acquaintance with
20 whom no substantial relationship existed, or a stranger.
He or she

21 3. (d) Has been found to have committed a serious sex offense, as defined in s.
22 304.06 (2m) (a), or a serious child sex offense, as defined in s. 939.62 (2m) (a) 1m.,
23 involving a victim 12 years of age or older and the offense was directed toward a
the victim is

END
OF
INSERT
↓

1 person with whom a relationship had been established or exploited for the purpose
2 of victimization, a person of casual acquaintance with whom no substantial
3 relationship existed, or a stranger.

4 ^{Any} (c) Meets criteria established by the department, by rule.

NOTE: Creates definition of "high-risk sex offender" which is used in s. 301.46 (5) -
(bm) 10, created in this bill draft.

5 **SECTION 3.** 301.03 (20b) of the statutes is created to read:

6 301.03 (20b) Require, as a condition of probation, parole, or extended
7 supervision for a violation of s. 948.02 (1) or (2) or 948.025, that the person is
8 prohibited from going to places or entering zones containing places where children
9 congregate and where it would be in the interest of public protection to prohibit the
10 person from going, as determined by the department, during any part of the person's
11 period of probation, parole, or extended supervision.

NOTE: Requires DOC to prohibit a person, as a condition of probation, parole, or
extended supervision for first- or second-degree sexual assault of a child or engaging in
repeated acts of sexual assault of the same child, from going to places or entering zones
containing places where children congregate and where it would be in the interest of
public protection to prohibit the person from going, as determined by the department, as
a condition of the person's probation, parole, or extended supervision.

12 **SECTION 4.** 301.45 (2) (a) 6m. of the statutes is created to read:

13 301.45 (2) (a) 6m. The name or number of any electronic mail account used by
14 the person and the Internet address of any website maintained by the person.

NOTE: Requires a registered sex offender to provide to DOC his or her email account
and the Internet address of any website maintained by the offender.

15 **SECTION 5.** 301.45 (3) (title) and (a) (intro.) of the statutes are amended to read:

16 301.45 (3) (title) ANNUAL BIENNIAL REGISTRATION AND PHOTOGRAPH
17 REQUIREMENTS.

18 (a) (intro.) A person covered under sub. (1g) is subject to the annual biannual
19 registration and photograph requirements under par. (b) as follows:

SECTION 6. 301.45 (3) (b) 1. of the statutes is amended to read:

301.45 (3) (b) 1. Except as provided in subd. 1m., a person who is subject to par.
(a) shall ~~notify~~ ^{in person, provide} the department ~~once each calendar year~~, as directed by the
department, ~~every 6 months~~ of his or her current information specified in sub. (2) (a).
The person shall provide the department with his or her information in person. At
that time, the department shall photograph the person and update the registry with
the person's most current photograph. The department shall annually notify
registrants of their need to comply with this requirement ~~every 6 months~~ ^{every 6 months}. If the
registrant is a person under the age of 18, the department may also annually notify
the registrant's parent, guardian or legal custodian every 6 months of the registrant's
need to comply with this requirement.

NOTE: Requires a person registered as a sex offender to register ~~every 6 months~~ ^{51K 1} and
to provide DOC with the registry information *in person*. At the time of the registration,
DOC must photograph the person and then update the registry with the person's most
current photograph.

SECTION 7. 301.45 (3) (b) 1m. of the statutes is amended to read:

301.45 (3) (b) 1m. A person who is subject to lifetime registration under sub.
(5) (b) 2. or (5m) (b) 4. shall notify the department once each 90 days, as directed by
the department, of his or her current information specified in sub. (2) (a). At least
once every 6 months, the person shall provide the department with his or her
information in person, as directed by the department. At that time, the department
shall photograph the person and update the registry with the person's most current
photograph. Every 90 days, the department shall notify registrants subject to this
subdivision of their need to comply with this requirement the requirements of this
subdivision. If the registrant subject to this subdivision is a person under the age
of 18, the department may also notify the registrant's parent, guardian or legal

1 custodian every 90 days of the registrant's need to comply with this requirement the
2 requirements of this subdivision. ✓

NOTE: Maintains the requirement in current law that certain persons subject to lifetime sex offender registration register every 90 days but requires that registration be in person at least once every 6 months. At the time of in-person registration, DOC must photograph the person and then update the registry with the person's most current photograph.

3 **SECTION 8.** 301.46 (1) (am) of the statutes is created to read:

4 301.46 (1) (am) "Postsecondary educational institution" means a public or
5 private college or university, or a vocational or technical institution or school.

NOTE: Creates a definition of "postsecondary educational institution" for purposes of providing sex offender registry information to the director of security for any postsecondary institution.

6 **SECTION 9.** 301.46 (2) (am) of the statutes is created to read:

7 301.46 (2) (am) When a person is registered with the department under s.
8 301.45 (2), the department shall immediately make the information specified in par.
9 (b) available to the director of security for any postsecondary educational institution
10 in the community in which the person is residing, is employed, or is attending school,
11 except that the department may not provide any of the information under sub. (5) (c).
12 The department shall make information available under this paragraph through a
13 direct electronic data transfer system.

NOTE: Provides that when a person is registered as a sex offender, DOC must immediately make information, currently available to law enforcement, concerning the sex offender available to the director of security for any postsecondary educational institution in the community in which the person is residing, is employed, or is attending school, except that DOC may not provide any information concerning a registered sex offender who is a child or any information concerning a juvenile proceeding in which the registered sex offender was involved.

14 **SECTION 10.** 301.46 (2) (c) of the statutes is amended to read:

15 301.46 (2) (c) When a person who is registered under s. 301.45 (2) updates
16 information under s. 301.45 (4), the department shall immediately make the updated
17 information available to the police chief of any community and, the sheriff of any

1 county, and the director of security for any postsecondary educational institution in
2 the community in which the person is residing, is employed or is attending school,
3 except that the department may not provide any of the information under sub. (5) (c)
4 to a director of security for a postsecondary educational institution. The department
5 shall make the updated information available under this paragraph through a direct
6 electronic data transfer system.

NOTE: Requires DOC to provide the director of security for any postsecondary educational institution with updated sex offender registry information.

7 **SECTION 11.** 301.46 (2) (d) of the statutes is amended to read:

8 301.46 (2) (d) In addition to having access to information under pars. (a), (am),
9 and (c), a police chief or, sheriff, or director of security for any postsecondary
10 educational institution may request that the department provide the police chief or,
11 sheriff, or director of security with information concerning any person registered
12 under s. 301.45, except that the department may not provide any of the information
13 under sub. (5) (c) to a director of security for a postsecondary educational institution.

NOTE: Permits a director of security for a postsecondary educational institution to request information concerning any person registered as a sex offender and permits DOC to provide that information, except that DOC may not provide any information concerning a registered sex offender who is a child or any information concerning a juvenile proceeding in which the registered sex offender was involved.

14 **SECTION 12.** 301.46 (2m) (a) of the statutes is amended to read:

15 301.46 (2m) (a) If an agency with jurisdiction confines a person under s.
16 301.046, provides a person entering the intensive sanctions program under s.
17 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
18 a person from confinement in a state correctional institution or institutional care,
19 and the person has, on one occasion only, been convicted or found not guilty or not
20 responsible by reason of mental disease or defect for a sex offense or for a violation
21 of a law of this state that is comparable to a sex offense, the agency with jurisdiction

1 may notify the police chief of any community ~~and, the sheriff of any county, and the~~
2 director of security for any postsecondary educational institution in the community
3 in which the person will be residing, employed or attending school if the agency with
4 jurisdiction determines that such notification is necessary to protect the public,
5 except that the department may not provide any of the information under sub. (5) (c)
6 to a director of security for a postsecondary educational institution. Notification
7 under this paragraph may be in addition to providing access to information under
8 sub. (2) or to any other notification that an agency with jurisdiction is authorized to
9 provide.

10 **SECTION 13.** 301.46 (2m) (am) of the statutes is amended to read:

11 301.46 (2m) (am) If an agency with jurisdiction confines a person under s.
12 301.046, provides a person entering the intensive sanctions program under s.
13 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
14 a person from confinement in a state correctional institution or institutional care,
15 and the person has been found to be a sexually violent person under ch. 980 or has,
16 on 2 or more separate occasions, been convicted or found not guilty or not responsible
17 by reason of mental disease or defect for a sex offense or for a violation of a law of this
18 state that is comparable to a sex offense, the agency with jurisdiction shall notify the
19 police chief of any community ~~and, the sheriff of any county, and the director of~~
20 security for any postsecondary educational institution in the community in which
21 the person will be residing, employed or attending school, except that the
22 department may not provide any of the information under sub. (5) (c) to a director
23 of security for a postsecondary educational institution. Notification under this
24 paragraph shall be in addition to providing access to information under sub. (2) and
25 to any other notification that an agency with jurisdiction is authorized to provide.

1 **SECTION 14.** 301.46 (2m) (b) (intro.) and 2. of the statutes are amended to read:
2 301.46 (2m) (b) (intro.) The notification under par. (a) or (am) shall be in the
3 form of a written bulletin to the police chief or, sheriff, or director of security that
4 contains all of the following:

NOTE: Requires DOC to provide special bulletin notices under s. 301.46 (2m), stats., to directors of security for postsecondary educational institutions, except that DOC may not provide any information concerning a registered sex offender who is a child or any information concerning a juvenile proceeding in which the registered sex offender was involved.

5 2. Any other information that the agency with jurisdiction determines is
6 necessary to assist law enforcement officers and security of a postsecondary
7 educational institution or to protect the public. Information under this subdivision
8 may include a photograph of the person, other identifying information and a
9 description of the person's patterns of violation.

NOTE: Permits DOC to provide information in addition to the special bulletin notice if DOC determines it is necessary to assist security of a postsecondary educational institution.

10 **SECTION 15.** 301.46 (5) (bm) 2. of the statutes is amended to read:

11 301.46 (5) (bm) 2. ~~A~~ Two or more current color photograph photographs of the
12 person, if available, and a physical description including sex, race, height, weight,
13 eye color, and hair color. The photographs shall be updated at least every 6 months.
14 If one or more current color photographs of the person are impossible to obtain, one
15 or more other photographs of the person may be used.

16 **SECTION 16.** 301.46 (5) (bm) 10. to 12. of the statutes are created to read:

17 301.46 (5) (bm) 10. If the person is a sexually violent person, as defined in s.
18 980.01 (7), or a high-risk sex offender, ~~as defined in s. 301.01 (1g)~~, the geographic
19 area of any current employer of the person or any business the person is operating
20 and the geographic area of any school the person is attending.

11. Full body photograph of the person.

12. A specific description of any distinguishing marks on the body of the person.

NOTE: Expands the list of required information on the DOC sex offender registry website to include the following:

a. *Two or more current color photographs* of the person. The photographs must be updated at least every *6* months. If one or more current color photographs of the person are impossible to obtain, one or more other photographs of the person may be used.

b. If the person is an SVP or a registered "high-risk sex offender" as defined in *301.01 (1g)*, the geographic area of any current employer of the person or any business the person is operating and the geographic area of any school the person is attending. The bill draft creates a definition of "high-risk sex offender" in SECTION 2.

c. A full body photograph of the person. This is in addition to the other photograph requirements in the draft and in current law.

d. A specific description of any distinguishing marks on the person's body.

SECTION 17. 301.46 (5n) (a) of the statutes is amended to read:

301.46 (5n) (a) ~~No later than June 1, 2001, the~~ The department shall provide access to information concerning persons registered under s. 301.45 by creating and maintaining an Internet site and by any other means that the department determines is appropriate. The information provided through the Internet site shall be organized in a manner that allows a person using the Internet site to obtain the information that the department is required to provide the person under sub. (2), (2m), *(2f)*, (3), (4) or (5) and other information that the department determines is necessary to protect the public and links to state agency websites that provide information on the prevention and identification of sexual abuse and other sex crimes and information on how to report suspected sexual abuse or other sex crime.

The department shall keep the information provided on the Internet site and in other means used to allow access to the information secure against unauthorized alteration.

NOTE: Requires DOC to include on its sex offender website links to other state agency websites that provide information on the prevention and identification of sexual abuse and other sex crimes and information on how to report suspected sexual abuse or other sex crimes.

1 **SECTION 18.** 301.48 (3) (e) of the statutes is created to read:

2 301.48 (3) (e) The department shall provide a director of security for a
3 postsecondary educational institution, as defined in s. 301.46 (1) (am), with
4 information obtained through the global positioning tracking system, upon request.
5 *The department shall determine*
6 The information provided and the manner in which it is provided shall be determined
by the department.

NOTE: Requires DOC to provide a director of security for a postsecondary educational institution with information obtained through the global positioning tracking system for certain sex offenders, upon request of the director of security.

7 **SECTION 19.** 973.50 of the statutes is created to read:

8 **973.50 Sentencing; child safety zones for child sex offenders.** When a
9 court imposes a sentence on a person or places a person on probation for a crime
10 under s. 948.02 (1) or (2) or 948.025, the court shall prohibit the person from going
11 to places or entering zones containing places where children congregate and where
12 it would be in the interest of public protection to prohibit the person from going, as
13 determined by the court, during any part of the person's sentence or period of
14 probation.

NOTE: Requires a court to prohibit a person from going to places or entering zones containing places where children congregate and where it would be in the interest of public protection to prohibit the person from going, as determined by the court, during any part of the person's sentence or period of probation when the court imposes a sentence on a person or places a person on probation for first- or second-degree sexual assault of a child or engaging in repeated acts of sexual assault of the same child.

15

(END)

LWS
13-15

O-Note

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2293/Plins
CMH:....pg

1 Insert A

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

2 → *anal.fe-st+local*

3 Insert 11-10

4 **SECTION 1.** 301.46 (2r) of the statutes is created to read:

5 301.46 (2r) ACCESS FOR POSTSECONDARY EDUCATIONAL INSTITUTIONS. (a) When a
6 person is registered under s. 301.45 (2) or when the person informs the department
7 of a change in information under s. 301.45 (4), the department shall immediately
8 make the information specified in par. (b) available to the director of security for any
9 postsecondary education institution in the community in which the person is
10 residing, is employed, or is attending school. The department shall make
11 information or updated information available under this paragraph through a direct
12 electronic data transfer system.

13 (b) Subject to par. (c), the department shall make all of the following
14 information available under par. (a):

- 15 1. The person's name, including any aliases used by the person.
- 16 2. Information sufficient to identify the person, including date of birth, sex,
17 race, height, weight, and hair and eye color.
- 18 3. The statute the person violated, the date of conviction, adjudication or
19 commitment, and the county or, if the state is not this state, the state in which the
20 person was convicted, adjudicated or committed.

21 4. Whichever of the following is applicable:

1 a. The date the person was placed on probation, supervision, conditional
2 release, conditional transfer, or supervised release.

3 b. The date the person was released from confinement, whether on parole,
4 extended supervision, or otherwise, or discharged or terminated from a sentence or
5 commitment.

6 c. The date the person entered the state.

7 d. The date the person was ordered to comply with s. 301.45. ✓

8 5. The address at which the person is residing.

9 6. The name of the agency supervising the person, if applicable, and the office
10 or unit and telephone number of the office or unit that is responsible for the
11 supervision of the person.

12 7. The name and address of any place at which the person is employed.

13 8. The name and location of any school in which the person is enrolled.

14 9. The most recent date on which the information under s. 301.45 was updated. ✓

15 (c) In addition to having access to information under par. (a) and subject to par.
16 (d), a director of security for a postsecondary educational institution may request
17 that the department provide him or her with information concerning any person
18 registered under s. 301.45. ✓

19 (d) The department may not provide any of the following to a director of security
20 for a postsecondary educational institution: ✓

21 1. Any information concerning a child who is required to register under s.
22 301.45. ✓

23 2. If the person required to register under s. 301.45 is an adult, any information
24 concerning a juvenile proceeding in which the person was involved. ✓

NOTE: Provides that when a person is registered as a sex offender, DOC must immediately make information, currently available to law enforcement, concerning the sex offender available to the director of security for any postsecondary educational institution in the community in which the person is residing, is employed, or is attending school, except that DOC may not provide any information concerning a registered sex offender who is a child or any information concerning a juvenile proceeding in which the registered sex offender was involved. Requires DOC to provide the director of security for any postsecondary educational institution with updated sex offender registry information. Permits a director of security for a postsecondary educational institution to request information concerning any person registered as a sex offender and permits DOC to provide that information, except that DOC may not provide any information concerning a registered sex offender who is a child or any information concerning a juvenile proceeding in which the registered sex offender was involved.

1 **SECTION 2.** 301.46 (2s) of the statutes is created to read:

2 301.46 (2s) BULLETINS TO THE DIRECTORS OF SECURITY FOR POSTSECONDARY
3 EDUCATIONAL INSTITUTIONS. (a) If an agency with jurisdiction confines a person under
4 s. 301.046, provides a person entering the intensive sanctions program under s.
5 301.048 with a sanction other than a placement in a Type 1 prison or a jail, or releases
6 a person from confinement in a state correctional institution or institutional care,
7 and the person has, on one occasion only, been convicted or found not guilty or not
8 responsible by reason of mental disease or defect for a sex offense or for a violation
9 of a law of this state that is comparable to a sex offense, the agency with jurisdiction
10 may notify any director of security for a postsecondary educational institution in the
11 community in which the person will be residing, employed, or attending school if the
12 agency with jurisdiction determines that such notification is necessary to protect the
13 public. Notification under this paragraph may be in addition to providing access to
14 information under sub. (2r) or to any other notification that an agency with
15 jurisdiction is authorized to provide.

16 (am) If an agency with jurisdiction confines a person under s. 301.046, provides
17 a person entering the intensive sanctions program under s. 301.048 with a sanction
18 other than a placement in a Type 1 prison or a jail, or releases a person from

1 confinement in a state correctional institution or institutional care, and the person
2 has been found to be a sexually violent person under ch. 980 or has, on 2 or more
3 separate occasions, been convicted or found not guilty or not responsible by reason
4 of mental disease or defect for a sex offense or for a violation of a law of this state that
5 is comparable to a sex offense, the agency with jurisdiction shall notify any director
6 of security for a postsecondary educational institution in the community in which the
7 person will be residing, employed, or attending school. Notification under this
8 paragraph shall be in addition to providing access to information under sub. (2r) and
9 to any other notification that an agency with jurisdiction is authorized to provide.

10 (at) Paragraphs (a) and (am) do not apply to a person if a court has determined
11 under s. 301.45 (1m) that the person is not required to comply with the reporting
12 requirements under s. 301.45.

13 (b) The notification under par. (a) or (am) shall be in the form of a written
14 bulletin to the director of security for any postsecondary educational institution that
15 contains all of the following:

16 1. The information specified in sub. (2r) (b).

17 1m. Notice that information concerning persons registered under s. 301.45 is
18 be available on the Internet site established by the department under sub. (5n).

19 2. Any other information that the agency with jurisdiction determines is
20 necessary to aid the security of a postsecondary educational institution. Information
21 under this subdivision may include a photograph of the person, other identifying
22 information, and a description of the person's patterns of violation.

23 (c) Notification under this subsection may not include any of the following
24 information:

1 1. Any information concerning a child who is required to register under s.
2 301.45.

3 2. If the person required to register under s. 301.45 is an adult, any information
4 concerning a juvenile proceeding in which the person was involved.

NOTE: Requires DOC to provide special bulletin notices under s. 301.46 (2m), stats.,
to directors of security for postsecondary educational institutions, except that DOC may
not provide any information concerning a registered sex offender who is a child or any
information concerning a juvenile proceeding in which the registered sex offender was
involved. Permits DOC to provide information in addition to the special bulletin notice
if DOC determines it is necessary to aid the security of a postsecondary educational
institution.

5 **SECTION 3.** 301.46 (4) (title) of the statutes is amended to read:

6 301.46 (4) (title) ACCESS TO INFORMATION FOR AGENCIES AND ORGANIZATIONS OTHER
7 THAN LAW ENFORCEMENT AGENCIES OR POSTSECONDARY EDUCATIONAL INSTITUTIONS.

8 **History:** 1995 a. 440; 1997 a. 6, 27, 130, 181, 237, 283; 1999 a. 89; 2001 a. 16; 2003 a. 188; 2005 a. 5, 431.

9 Insert 13-15

10 **SECTION 4.** 302.11 (4r) of the statutes is created to read:

11 302.11 (4r) An inmate paroled under this section who is serving a sentence for
12 the violation of, or the solicitation, conspiracy, or attempt to engage in conduct in
13 violation of, s. 948.02 (1) or (2) or 948.025 is subject to the parole condition under s.
14 304.06 (2r).

15 **SECTION 5.** 302.116 (3) of the statutes is created to read:

16 302.116 (3) A person serving a sentence for the violation of, or the solicitation,
17 conspiracy, or attempt to engage in conduct in violation of, s. 948.02 (1) or (2) or
18 948.025 is prohibited as a condition of extended supervision from going to places or
19 entering zones containing places where children congregate, as determined by the
20 department, and where it would be in the interest of public protection, as determined
21 by the department, to prohibit the person from going.

NOTE: Requires DOC to prohibit a person, as a condition of extended supervision for first- or second-degree sexual assault of a child or engaging in repeated acts of sexual assault of the same child, from going to places or entering zones containing places where children congregate and where it would be in the interest of public protection to prohibit the person from going, as determined by DOC, as a condition of the person's extended supervision.

SECTION 6. 304.06 (2r) of the statutes is created to read:

304.06 (2r) A person who is serving a sentence for a violation of, or the solicitation, conspiracy, or attempt to engage in conduct in violation of, s. 948.02 (1) or (2) or 948.025 is prohibited as a condition of parole from going to places or entering zones containing places where children congregate, as determined by the department, and where it would be in the interest of public protection, as determined by the department, to prohibit the person from going.

NOTE: Requires DOC to prohibit a person, as a condition of parole for first- or second-degree sexual assault of a child or engaging in repeated acts of sexual assault of the same child, from going to places or entering zones containing places where children congregate and where it would be in the interest of public protection to prohibit the person from going, as determined by DOC, as a condition of the person's parole.

SECTION 7. 971.17 (4f) of the statutes is created to read:

971.17 (4f) CONDITIONS FOR CONDITIONAL RELEASE OF SEX OFFENDERS. A person who has been found not guilty by reason of mental disease or defect of an offense under s. 948.02 (1) or (2) or 948.025 and who is conditionally released under sub. (3) or (4) (e) is prohibited as a condition of conditional release from going to places or entering zones containing places where children congregate, as determined by the department, and where it would be in the interest of public protection, as determined by the department, to prohibit the person from going.

NOTE: Requires DHFS to prohibit a person, as a condition of conditional release for first- or second-degree sexual assault of a child or engaging in repeated acts of sexual assault of the same child, from going to places or entering zones containing places where children congregate and where it would be in the interest of public protection to prohibit the person from going, as determined by DOC, as a condition of the person's conditional release.

SECTION 8. 973.09 (8) of the statutes is created to read:

1 973.09 (8) If the court places a person on probation for an offense under s.
2 948.02 (1) or (2) or 948.025, the court shall prohibit the probationer, as a condition
3 of probation, from going to places or entering zones containing places where children
4 congregate, as determined by the department, and where it would be in the interest
5 of public protection, as determined by the department, to prohibit the person from
6 going.

NOTE: Requires DOC to prohibit a person, as a condition of probation for first- or
second-degree sexual assault of a child or engaging in repeated acts of sexual assault of
the same child, from going to places or entering zones containing places where children
congregate and where it would be in the interest of public protection to prohibit the person
from going, as determined by DOC, as a condition of the person's probation.

7 **SECTION 9.** 975.10 (1m) of the statutes is created to read:

8 975.10 (1m) A person who is released on parole under sub. (1) for an offense
9 under s. 948.02 (1) or (2) or 948.025 is prohibited as a condition of parole from
10 going to places or entering zones containing places where children congregate, as
11 determined by the department of corrections, and where it would be in the interest
12 of public protection, as determined by the department of corrections, to prohibit the
13 person from going.

NOTE: Requires DHFS to prohibit a person, as a condition of parole for first- or
second-degree sexual assault of a child or engaging in repeated acts of sexual assault of
the same child, from going to places or entering zones containing places where children
congregate and where it would be in the interest of public protection to prohibit the person
from going, as determined by DOC, as a condition of the person's parole.

14
15
16 **SECTION 10. Initial applicability.**

17 (1) The treatment of sections 302.11 (4r), 304.06 (2r), and 975.10 (1m) first
18 applies to persons who begin parole on the effective date of this subsection.

19 (2) The treatment of section 302.116 (3) of the statutes first applies to persons
20 placed on extended supervision on the effective date of this subsection.

Ed:
checked on
effective
date
7/11/07

1 (3) The treatment of section 971.17 (4f) of the statutes first applies to persons
2 placed on conditional release on the effective date of this subsection.

3 (4) The treatment of section 973.09 (8) of the statutes first applies to persons
4 placed on probation on the effective date of this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2293/P1dn

CMH:...

Date

Anne:

See my changes to s. 301.01 (1g) (b), now 301.46 (1) (ag) (I moved it since the term appears only in s. 301.46--OK?). I focused on the offense rather than the victim. I thought it could have been misinterpreted. The person would have committed offenses involving two separate victims, at least one of which had to be a victim of a serious sex offense. But the victim could be a victim of such an offense without involving this particular offender. I don't know if my rewrite is the best way to articulate what you want so please review it.

Should we require DOC to determine generally what are "places or zones containing places where children congregate" and what are "places where it would be in the interest of public protection"? A statute that delegates to the power to determine what is in the public's interest is constitutionally vulnerable on delegation grounds, as evidenced by decisions of the Wisconsin Supreme Court. In one decision, the court struck down a statute that delegated to circuit courts the authority to determine when it was in the interest of the public to establish a metropolitan sewerage district. In re City of Fond du Lac, 42 Wis. 2d 323 (1969). Similarly, the court invalidated a statute that delegated to the circuit courts the duty of determining if a particular annexation was in the public interest. In both cases, the court was troubled because the statutes gave a nonlegislative entity the power to determine policy by deciding what constituted the public's interest. Although there are no reported cases in Wisconsin concerning the delegation of the public interest determination to an administrative agency, other state courts have struck down such statutes on delegation grounds, regardless of whether the statute delegated the power to a court or an agency. The common thread among all these cases is that the legislature may not abdicate its responsibility by allowing other entities to make public policy determinations.

Also, please note that DHFS has custody of persons on conditional release and persons released on parole under ch. 975. But I still have DOC creating the exclusion places and zones. Is that OK? Perhaps I am confused whether the determination of these zones is done case by case or as a whole.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2293/P1dn
CMH:kjf:pg

April 27, 2007

Anne:

See my changes to s. 301.01 (1g) (b), now 301.46 (1) (ag) (I moved it since the term appears only in s. 301.46--OK?). I focused on the offense rather than the victim. I thought it could have been misinterpreted. The person would have committed offenses involving two separate victims, at least one of which had to be a victim of a serious sex offense. But the victim could be a victim of such an offense without involving this particular offender. I don't know if my rewrite is the best way to articulate what you want so please review it.

Should we require DOC to determine generally what are "places or zones containing places where children congregate" and what are "places where it would be in the interest of public protection"? A statute that delegates to the power to determine what is in the public's interest is constitutionally vulnerable on delegation grounds, as evidenced by decisions of the Wisconsin Supreme Court. In one decision, the court struck down a statute that delegated to circuit courts the authority to determine when it was in the interest of the public to establish a metropolitan sewerage district. In re City of Fond du Lac, 42 Wis. 2d 323 (1969). Similarly, the court invalidated a statute that delegated to the circuit courts the duty of determining if a particular annexation was in the public interest. In both cases, the court was troubled because the statutes gave a nonlegislative entity the power to determine policy by deciding what constituted the public's interest. Although there are no reported cases in Wisconsin concerning the delegation of the public interest determination to an administrative agency, other state courts have struck down such statutes on delegation grounds, regardless of whether the statute delegated the power to a court or an agency. The common thread among all these cases is that the legislature may not abdicate its responsibility by allowing other entities to make public policy determinations.

Also, please note that DHFS has custody of persons on conditional release and persons released on parole under ch. 975. But I still have DOC creating the exclusion places and zones. Is that OK? Perhaps I am confused whether the determination of these zones is done case by case or as a whole.

Cathlene Hanaman
Legislative Attorney
Phone: (608) 267-9810
E-mail: cathlene.hanaman@legis.wisconsin.gov